

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOSEPH P. GARDENHOUR,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.
	)	
NANCY A. BERRYHILL,	)	
Acting Commissioner of Social Security,	)	
	)	
Defendant.	)	

COMPLAINT FOR JUDICIAL REVIEW

The Plaintiff, complaining of the Defendant, does hereby allege and say that:

1. Jurisdiction is conferred upon the Court by 42 U.S.C.A. §405(g) and 1383(c)(3).
2. The Plaintiff is a resident of Waynesboro, Franklin County, Pennsylvania.
3. The Plaintiff filed a claim for a period of disability, disability insurance benefits and Supplemental Security Income under Titles II and/or XVI of the Social Security Act.
4. The Plaintiff's claim was denied and the Plaintiff exhausted the administrative appeals process without success.
5. The decision of the Defendant that the Plaintiff is not disabled is not supported by substantial evidence and applies an erroneous standard of law.

WHEREFORE, Plaintiff requests that this court:

- A. Reverse and set aside the Commissioner's final decision; or
- B. In the alternative, remand this cause for further proceedings consistent with the Commissioner's regulations and Circuit law. In the event the Commissioner decides to take a voluntary remand in this case, Plaintiff demands that the remand be by stipulation of the parties. If the parties cannot

agree on the wording and agree to a remand, Plaintiff makes a standing objection to a motion for remand by the Government and shall exercise the right to file a response;

- C. Award attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, if plaintiff is the prevailing party;
- D. Stay any filing deadline for filing a fee petition for an award of attorney's fees pursuant to 42 U.S.C. § 406(b) after final judgment until such time as past-due benefits are determined by the Commissioner and counsel is in receipt of the Notice of Award, and then award attorney's fees pursuant to 42 U.S.C. § 406(b) upon filing of the fee petition; and
- E. Order such other relief as this court deems just.

Respectfully submitted,  
s/ Patrick J. Best, Esq.  
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